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**AUG 17 2004**

**OFFICE OF PETITIONS**

In re Application of  
Fongelland et al.  
Application No. 10/689,252  
Filed: October 20, 2003  
Attorney Docket No. JMYT-234US1

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: DECISION ON PETITION  
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This is a decision on the "Petition for Grant of Filing Date," filed June 3, 2004, requesting that the above-identified application be accorded a filing date of October 20, 2003.

Application papers in the above-identified application were filed on October 20, 2003. On May 25, 2004, the Initial Patent Examination Division (IPED) mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was filed without a specification.

In response, applicants timely filed the instant petition, asserting that the application as filed included a specification. Specifically, applicants state that the application was filed with a copy of the specification from the parent application (PCT/GB99/02935). In support thereof, applicants submit a copy of the application as they maintain it was filed, as well as, a copy of their itemized return postcard with an Office date-stamp thereon of October 20, 2003.

A review of the application as filed reveals that it included the copy of the specification from the parent application. Specifically, the application as filed included *inter alia* a 15 page specification, 3 pages of claims (including at least one process claim) and a 1 page abstract. Given the presence of at least one process claim, this application is appropriately treated as one for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). See MPEP 601.01(f). Pursuant to 35 U.S.C. 111(a)(4), this application as filed met the requirements for a filing date.

The Notice of Incomplete Application mailed May 25, 2004 was mailed in error, and is hereby withdrawn.

In view thereof, the petition is GRANTED.

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 18-0350, as authorized. The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- correction of the filing date to October 20, 2003, using the application papers received in the Office on that date  
(papers have been re-coded as SPEC 15, CLM 3 and ABST 1).

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.



Nancy Johnson  
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Office of Petitions